IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 31956 of 2005(D)

AGAINST THE ORDER DATED 5.10.05 IN EP.617/03 IN OS.518/1999 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

UNNIKRISHNAN, AGED 40,
S/O. KARIKANTHARA GOPALAN, POTTUR VILLAGE, DESOM,
THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT:

KSHEMAVILASAM KURI COMPANY LTD.,THRISSUR

BY ADV. SRI.JIMMY JOHN VELLANIKARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.31956/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF EP.617/03 IN O.S.518/99 OF SUB COURT, THRISSUR.

EXT.P2 – TRUE COPY OF OBJECTIONS FILED BY PETR. TO EXT.P1.

EXT.P3 – TRUE COPY OF PROCEEDINGS OF II ADDL. SUB COURT, THRISSUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.31956 OF 2005

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DATED THIS THE 3RD AUGUST, 2007

J U D G M E N T

Ext.P3 proceedings of the execution court directing sale of the property belonging to the petitioner-1st judgment-debtor is under challenge in this Writ Petition. The ground which is seriously raised by the petitioner is that it is not necessary to proclaim and sell the entire property for realisation of the decree-debt and that it will suffice if a portion of the property is sold.

2. While admitting the Writ Petition and granting stay, this Court imposed a condition that the petitioner shall pay a sum of Rs.50,000/- to the decree-holder within 10 days. Both sides agree that the above condition was complied with by the petitioner.

3. Having regard to the grounds raised in the Writ Petition and the submissions addressed at the Bar, I dispose of the Writ Petition itself issuing the following directions:-

The petitioner shall pay a further amount of Rs.50,000/- to the decree-holder within three weeks from today and produce receipt before the execution court. Once the execution court notices the receipt against payment of the above amount, that court will keep all proceedings in the Execution Petition in abeyance for a further period

of six months. It is open to the petitioner to identify a purchaser who will be prepared to purchase whichever portion of the property in question for an amount sufficient for discharging the decree-debt in full. Once such a purchaser is identified, the petitioner will produce copy of the agreement before the execution court and file an application for permission to have a private sale in favour of that person. The court below will consider that application, hear both sides and pass appropriate orders, thereby ensuring that the entire decree-debt is paid off either by the petitioner or by the prospective purchaser. At any rate, the stay will not continue beyond the period of six months indicated above.

(PIUS C.KURIAKOSE, JUDGE)

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